



**Billing Code 6325-39**

**OFFICE OF PERSONNEL MANAGEMENT**

**5 CFR Parts 890 and 894**

**RIN 3206-AM97**

**Federal Employees Health Benefits Program and Federal Employees Dental and Vision Insurance Program: Eligibility for Pathways Programs Participants**

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Interim Final Rule with request for comments.

**SUMMARY:** The U.S. Office of Personnel Management (OPM) is issuing an interim final regulation to update the Federal Employees Health Benefits Program (FEHBP) and the Federal Employees Dental and Vision Insurance Program (FEDVIP) regulations to reflect updated election opportunities for participants in the Pathways Programs. The Pathways Programs were created by Executive Order (E.O.) 13562, signed by the President on December 27, 2010, and are designed to enable the Federal Government to compete effectively for students and recent graduates by improving its recruitment efforts through internships and similar programs with Federal agencies. This interim final rule furthers these recruitment and retention efforts by providing health insurance, as well as dental and vision benefits, to eligible program participants and their families.

**DATES:** This interim final rule is effective [INSERT 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments are due on or before [INSERT 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Ronald Brown, Policy Analyst, (202)606-0004, or by e-mail to [Ronald.Brown@opm.gov](mailto:Ronald.Brown@opm.gov).

**SUPPLEMENTARY INFORMATION:** The Pathways Programs offer clear paths to civil service careers for recent graduates and provide meaningful training, mentoring, and career-development opportunities through internships and similar programs with Federal Government agencies. This interim final rule updates 5 CFR 890.303 and 5 CFR 894.302 to allow election opportunities for participants in these programs as authorized by the final rule: “Excepted Service, Career and Career-Conditional Employment; and Pathways Programs,” 77 FR 28193 (May 11, 2012). Accordingly, to provide essential healthcare benefits, and dental and vision benefits, and to further the recruitment and retention of talent by Federal agencies, OPM is issuing this rule to allow Pathways Programs participants to elect FEHBP and FEDVIP benefits.

### **Changes**

(1) Executive Order 13562, Recruiting and Hiring Students and Recent Graduates, and implementing regulations provide employee benefits to eligible participants in the Federal Government internships known as the Pathways Programs. The Federal Employee Dental and Vision Insurance Program (FEDVIP), signed into law on December 23, 2004, established a dental benefits and vision benefits program for Federal employees, annuitants, and their eligible family members. The FEDVIP benefit is available to all eligible Federal employees and is a valuable tool to recruit and retain students and recent graduates by allowing talented employees to participate in Government internships and similar programs. Similarly, eligibility to enroll in health benefits is a valuable tool that can be used as part of an overall plan to attract students and recent graduates interested in Federal careers and to successfully recruit and retain them. Accordingly, OPM is proposing to amend the existing Federal regulations to clarify that eligible

employees in the Pathways Programs are eligible to elect FEDVIP benefits. Also, we are proposing to amend the FEHBP rules to clarify that Pathways Programs interns are eligible to elect FEHBP enrollment pursuant to authorities contained in Schedule D of the excepted service, a new schedule created by E.O. 13562 to make necessary exceptions to the competitive hiring rules. These changes can be found in 5 CFR 894.302(f) and 5 CFR 890.303(e)(2).

### **Waiver of Proposed Rulemaking**

OPM has determined that it would be impracticable, unnecessary, and contrary to the public interest to delay putting the provisions of this interim final regulation in place until a public notice and comment process has been completed. Under section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 et seq.), a general notice of proposed rulemaking is not required when an agency, for good cause, finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. The expanded FEDVIP elections authorized by the Pathways Programs final rule require immediate implementation to protect available election opportunities for employees and their eligible dependents.

### **Regulatory Flexibility Act**

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only affects health insurance benefits of Federal employees and retirees.

### **Executive Order 12866, Regulatory Review**

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

## **List of Subjects in 5 CFR Parts 890 and 894**

Administrative practice and procedure, Government employees, Health insurance, Retirement.

U.S. Office of Personnel Management.

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Katherine Archuleta,  
Director.

Accordingly, the Office of Personnel Management is amending 5 CFR chapter I as follows:

## **PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM**

1. The authority citation for part 890 continues to read as follows:

**Authority:** 5 U.S.C. 8913; Sec. 890.301 also issued under sec. 311 of Pub. L. 111–3, 123 Stat. 64; Sec. 890.111 also issued under section 1622(b) of Pub. L. 104–106, 110 Stat. 521; Sec. 890.112 also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604; Sec. 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; Sec. 890.102 also issued under sections 11202(f), 11232(e), 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251; and section 721 of Pub. L. 105–261, 112 Stat. 2061.

Subpart C—Enrollment

2. In § 890.303, revise paragraph (e)(2) to read as follows:

**§ 890.303 Continuation of enrollment.**

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(e)\*\*\*

(2) However, in the case of an employee who is employed under an OPM approved career-related work-study program under Schedule D of at least one year's duration and who is expected to be in a pay status during not less than one-third of the total period of time from the date of the first appointment to the completion of the work-study program, his/her enrollment continues while he/she is in nonpay status so long as he/she is participating in the work-study program.

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**PART 894—FEDERAL EMPLOYEES DENTAL AND VISION INSURANCE PROGRAM**

3. The authority citation for part 894 is revised to read as follows:

**AUTHORITY:** 5 U.S.C. 8962; 5 U.S.C. 8992; Subpart C also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604.

**Subpart C—Eligibility**

4. In § 894.302, paragraph (f) is revised to read as follows:

**§ 894.302(f) What is an excluded position?**

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(f) Expected to work fewer than six months in each year. *Exception:* you are eligible if you receive an appointment of at least one year's duration as an Intern under §213.3402(a) of this chapter. To qualify, you must be expected to be in a pay status for at least one-third of the total period of time from the date of the first appointment to the completion of the work-study program.

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